CFI001

IN THE HIGH COURT OF JUDICATURE ,AT BILASPUR

W.P. NO. 361 /2002

PETITIONER:- Smt. Kalpana Lalji, wife of Asim Raj Lalji, house wife , aged about 38 R/o.Ward No.1, Manendragarh, Dist. Koria (C.G.)

VERSUS

RESPONDENTS:

1. State of C.G., Ministry of Tribal Welfare, through its secretary , Secretariat Raipur
2. Additional Commissioner, Bilaspur Division, Bilaspur.
3. Collector Koria Dist. Koria (C.G.)
4. Sub Divisional Officer,Manendragarh, Dist. Koria
5. NaibTahsildar,Manendragarh, Dist. Koria (C.G.).

2086/02
C. R. No. .....
Presented by Shri B. P. Gupta
dated 30.9.02

PETITION UNDER ARTICLES 226/227 OF THE CONSTITUTION OF INDIA:-

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP. 367/03 **सन्** **200**

..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

1.8.2005

Shri B.P. Gupta, counsel for the petitioner.

Shri Sandeep Dubey, Govt. Adv. for the State.

Heard.

The petitioner has preferred this writ petition under Article 226/227 of the Constitution of India questioning the legality, propriety and correctness of order dated 19.3.2002 passed by the Collector, Koriya and also order dated 17.5.2002 passed by the Additional Commissioner, Bilaspur Division, Bilaspur thereby dismissing the appeal preferred by the petitioner.

The case of the petitioner is that she submitted an application for grant of tribe caste certificate in her favour supported by her affidavit and report of Patwari. After enquiry and looking into the report of Patwari a caste certificate (Annexure P-3) was issued in her favour, which was valid for a period of six months only. However, on a complaint being made by one Shyam Sunder Poddar, an enquiry was conducted by the Sub Divisional Officer, Manendragarh, District Koriya and based upon the enquiry report of the SDO, the Collector passed the order dated 19.3.2002 and cancelled the caste certificate issued in favour of the petitioner. Against the said order an appeal has been preferred by the petitioner, but the same was dismissed by the Additional Commissioner vide order dated 17.5.2002.

Counsel for the petitioner submits that once considering the application, affidavit and report of the

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक ..... सन् 200

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

Patwari a caste certificate was granted in favour of the petitioner, then before cancelling the certificate the respondents ought to have followed the procedure regarding enquiry of caste of the petitioner as laid down by the Hon'ble Apex Court in the matter of **Kumari Madhuri Patil and another V. Addl. Commissoner, Tribal Development and others** reported in **AIR 1995 Supreme Court 94**.

Admittedly, the matter has not been enquired by the Committee constituted for the purpose, therefore, counsel for the petitioner submits that before passing the impugned orders the respondents are under legal duty to conduct an enquiry in view of above judgment. He further submitted that therefore, the respondents may be directed to conduct an enquiry in accordance with the above judgment, to which learned counsel for the respondents has no objection.

Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, the petition of the petitioner is allowed, the impugned orders are set aside and respondents are directed to get the enquiry conducted in accordance with the above judgment of the Hon'ble Apex Court and decide the matter thereafter.

In view of above order, M.(W.)P. No.298/05 and I.A. Nos.791/03 & 5815/05 also stand disposed of.

Certified copy as per rules.

Sd/-
L.C. Bhadoo
Judge

(पीछे देखिये)